



U.S. Department of Justice

Immigration and Naturalization Service

MI

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

FILE: [REDACTED] Office: Nebraska Service Center

Date: DEC 13 2000

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Temporary Protected Status under § 244 of the
Immigration and Nationality Act, 8 U.S.C. 1254a

IN BEHALF OF APPLICANT:

[REDACTED]

Public Copy

Notifying date closed to
prevent clearly unwarranted
invasion of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Mary C. Mulrean, Acting Director
Administrative Appeals Office

Section 244. [8 U.S.C. 1254a]

(c) ALIENS ELIGIBLE FOR TEMPORARY PROTECTED STATUS.-

(2) ELIGIBILITY STANDARDS.-

(A), WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.-In the determination of an alien's admissibility for purposes of subparagraph (A)(iii) of paragraph (1)-

(i) the provisions of paragraphs (5) and (7)(A) of § 212(a) shall not apply;

(ii) except as provided in clause (iii), the Attorney General may waive any other provision of § 212(a) of the Act in the case of individual aliens for humanitarian purposes, to assure family unity, or when it otherwise is in the public interest; but

(iii) the Attorney General may not waive-

(I) paragraphs (2)(A) and (2)(B) (relating to criminals) of such section,

(II) paragraph (2)(C) of such section (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marijuana, or

(III) paragraphs (3)(A), (3)(B), (3)(C), and (3)(E) of such section (relating to national security and participation in the Nazi persecutions or those who have engaged in genocide).

(B) ALIENS INELIGIBLE.-An alien shall not be eligible for temporary protected status under this section if the Attorney General finds that-

(i) the alien has been convicted of any felony or 2 misdemeanors committed in the United States,....

According to statements in the record, the applicant was charged on July 30, 1998 with the offense of theft, under \$750, a misdemeanor. She pleaded guilty to the charge, imposition of sentence was suspended and she was placed on probation for two years.

The record further reflects that on March 13, 2000 the applicant was charged with a Class B misdemeanor, Trespass in the First Degree, committed on July 26, 1998. No disposition of that charge has been submitted for review. The charging document lists the applicant's address as 3021 N.E. Swift, North Kansas City, MO.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by the Service. 8 C.F.R. 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and

probative value. To meet his or her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. 244.9(b).

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of § 244 of the Act. The applicant has failed to meet this burden.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.